

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH

v.

PAUL JACKSON HENRY, III,
Defendant

No. CP-67-CR-0006562-2016

CAPITAL CASE

RECEIVED
YORK COUNTY
JUDICIAL CENTER
2019 APR 15 PM 1:56
CLERK OF COURTS

COUNSEL OF RECORD:

David W. Sunday, Jr, Esquire
Jennifer L. Russell, Esquire
Lewis M. Reagan, Esquire
Counsel for the Commonwealth

Farley G. Holt, Esquire
Suzanne S. Smith, Esquire
Counsel for the Defense

ORDER

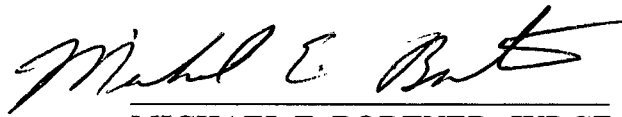
AND NOW, this 8th day of April, 2019, the parties being in agreement regarding the necessity of removing the defendant's sentence of death, the Court hereby **ORDERS** the **REMOVAL OF THE SENTENCE OF DEATH** imposed upon Paul J. Henry, III and provides notice that a **RESENTENCING** is **STAYED** pending further proceedings to determine the limits of resentencing. The reasons for this stay are recited *infra*.

The Court, *sua sponte*, queried whether double-jeopardy had attached such that the re-imposition of a sentence of death, should it be deemed appropriate by a neutral fact-finder, would be barred. Upon review of the parties' memorandums of law, we have resolved that double-jeopardy has not attached and, therefore, further **ORDER** that double-jeopardy does not bar the re-imposition of a sentence of death.

Finally, counsel for the defense has raised the issue of whether a judge or jury, sitting for a resentencing hearing would be bound to find any mitigation that was found by the original jury. To this end, it is **ORDERED** that counsel for the defendant shall have 20 days to file any support for this contention and the Commonwealth shall have 10 days from the receipt of any defense filing to file a response—if they so choose. Resentencing shall be scheduled by order of the Court following the closing of the period for the submission of memorandums regarding the issue of mitigation.

Copies of this Order shall be sent to York County Clerk of Courts, the Honorable David W. Sunday, District Attorney of York County, Farley G. Holt, Esquire, Suzanne S. Smith, Esquire, and the defendant, Paul J. Henry, III.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Michael E. Bortner", written over a horizontal line.

MICHAEL E. BORTNER, JUDGE